



Is FORENSIC ENGINEERING Practicing Engineering?

Can an engineer from another state who is not registered to practice “engineering” in Florida practice “Forensic Engineering” in Florida? Specifically, can a non-Florida P.E. conduct an investigation, issue a Forensic Engineering report and then testify in depositions and/or court?

The Practice Of Engineering

The practice of engineering within the State of Florida is regulated by **Chapter 471** of Florida’s Statutes (the legislature) and is governed by **Florida Administrative Code 61G15-18** through **61G15-37** (the Board of Professional Engineers). Specific to the question, Chapter 471 of Florida’s Statutes section **471.005 Definitions** defines the practice of engineering as:

“... any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation ...”

This section goes on to state:

“... A person who practices any branch of engineering; who, by verbal claim, sign, advertisement, letterhead, or card, or in any other way, represents himself or herself to be an engineer or, through the use of some other title, implies that he or she is an engineer or that he or she is licensed under this chapter; or who holds himself or herself out as able to perform, or does perform, any engineering service or work or any other service designated by the practitioner which is recognized as engineering shall be construed to practice or offer to practice engineering within the meaning and intent of this chapter.”

Court Rules or Court Rulings

The one possible exception to this is when the report or testimony is required exclusively by the courts. Specifically, testimony and/or reports required by Court Rules or Court

Rulings are not covered by Florida's licensure requirements. That is to say that FBPE has consistently taken the position that the actual testimony and related discovery actions in a court proceeding are within the purview of the courts and not subject to licensure requirement (as long as the testifying expert doesn't use the term P.E. outside of court or court documents). FBPE has held this position based on the fact that the decision as to who is considered an expert is for the court to determine.

Recent FBPE Examples

As for unlicensed individuals engaged in engineering outside of the Courts; individuals are routinely disciplined by the board for issuing reports or other documents that constitute or contain engineering opinions when they themselves were not licensed in the State of Florida to practice engineering or provide engineering services.

One recent case involved a Florida licensed geologist who issued a report that opined on geotechnical engineering matters and offered geotechnical and structural engineering recommendations. A second recent case involved the owner of an engineering firm who issued a report that contained engineering opinions. In this particular case the engineering firm was licensed but the individual (the owner) who issued and signed the report was not.

As for a licensed engineer engaged in engineering within the Courts; although possibly exempt from licensure requirement, FBPE has held that Florida P.E.s who opine in court settings, whether through testimony or reports, are still required to comply with Florida's engineering standards requirements.

One example of the FBPE holding a testifying engineer accountable to Florida's engineering standards requirements was *FEMC Case No. 2005047186 FLORIDA ENGINEERS MANAGEMENT CORPORATION v. DAVID BRUCE WIGGINS, P.E., et. Al.* In this particular case the respondent (Engineer Wiggins) was charged with rendering an opinion that was "... *deceptive or misleading or omitted relevant and pertinent information from his report or testimony when the omission could lead to a fallacious conclusion ...*" Therefore the respondent was charged with "... *misconduct in the practice of engineering for expressing an opinion on an engineering subject without being informed as to the facts, and thus being unable to form a sound opinion, or by being deceptive or misleading in a professional report or testimony*". In this case a stipulated agreement was executed with fines and penalties.

Therefore, when a complaint of unlicensed activity is filed with the Florida Board of Professional Engineers the board through the Florida Engineers Management Corporation has full authority to sanction and/or fine violators.

Authority Of FBPE

So if an individual is not licensed by the state and not regulated by the Board of Professional Engineers, how then can that individual be

disciplined by the Board of Professional Engineers? Because within **Chapter 471** of Florida's Statutes (the "**Florida Engineers Management Corporation Act**"), the Florida legislature delegated this authority to them. **Chapter 471** of Florida's Statutes section **471.038(2)** states that the Florida Engineers Management Corporation has the duty and authority;

"... to receive complaints and to investigate and deter the unlicensed practice of engineering ..."

Conclusion

If you are an engineer from another state who is not registered to practice "engineering" in Florida the safest thing to do is either apply for a Florida license or request a "Temporary Certificate to Practice in Florida."

Chapter 471 of Florida's Statutes section **471.021 Engineers and firms of other states; temporary certificates to practice in Florida** sets out the requirements and process for engineers not registered in Florida to obtain a temporary license in Florida to practice engineering.

For More Information

For access to the most current provisions included in **Chapter 471, Florida Statutes** and the **F.A.C. Rules 61G15-18** through **61G15-37** go to FBPE's website at <http://www.fbpe.org/legal/statutes-and-rules>.

This article was submitted by FBPE Board member William C. Bracken, P.E., S.I. Mr. Bracken is the President and Principal Engineer for Bracken Engineering located in Tampa, Florida. He is a licensed Special Inspector and Professional Engineer in the State of Florida.

